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February 4, 2009

Thomasenia P. Duncan  
General Counsel  
Office of the General Counsel  
Federal Election Commission  
999 E Street, NW, 6<sup>th</sup> Floor  
Washington, DC 20463

**Re: MUR 6149, Hillary Clinton for President and Shelly Moskwa, as Treasurer**

Dear Ms. Duncan:

This is the response of our clients, Hillary Clinton for President and Shelly Moskwa, as Treasurer (collectively, the "Committee" or "Respondents") to the complaint filed in Matter Under Review ("MUR") 6149.

In short, complainant asserts that he repeatedly sought a refund of his \$2,300 contribution that was designated to the 2008 presidential general election, as Senator Clinton was not a candidate in that election.<sup>1</sup> Complainant apparently did not receive the timely refund check issued to him at his address of record, and as noted by the Commission itself in its cover letter to counsel of December 23, 2008. While the Committee completely regrets any inconvenience to complainant, we urge the Commission to find that no violation of law occurred.

Upon receipt of this complaint, the Committee reviewed its bank records and confirmed that the refund check issued to complainant on August 28, 2008, and duly reported on the Committee's applicable FEC report, had not been cashed. A copy of the check is attached hereto. See Exhibit A. The check was sent by the Committee's compliance department to the complainant's address of record, which is identical to the address supplied in connection with the complaint. The Committee can only surmise that the check was lost in the mail or mistakenly discarded, and again, any inconvenience is regrettable.

For the record, and to further exacerbate complainant's inconvenience, none of his attempts to reach the Committee, in fact, ever reached the Committee. The offices to which he directed his various complaints were not Committee offices, but, instead, were official Senate offices, and regrettably, the information does not appear to have been transmitted to the Committee. Similarly, the communication made to HillPAC did not reach the Committee, as HillPAC is a separately registered entity, and the address to which his email communication was

<sup>1</sup> Complainant refers to this contribution as being from both him and his wife, Elizabeth Fuerstman, however, the Committee's records reflect that Daniel Weiner is the sole contributor of record.

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directed was not regularly or routinely checked. The Commission should be aware that the Committee would, of course, have addressed his concerns had they been received, as it employed a number of staff who had responsibility for ensuring that refunds were duly made and concerns were timely addressed.

Accordingly, the Committee has reissued a refund check to complainant, a copy of which is attached hereto as Exhibit B.

In light of these facts, the Committee urges that this complaint be dismissed forthwith. A refund was timely issued, duly reported, but unfortunately not received. This error – though not of the Committee's making – was corrected upon review of the facts and consideration of the complaint. The Committee has clearly met both the letter and the spirit of law, through its actions and its good faith. In addition, it would not be unexpected if a handful of refunds, out of a total amount of over \$21 million would have to be reissued, though such routine reissuance should not detract from the Committee's specific actions in compliance with the requirements of the law.

In short, the Committee does not believe that the complaint gives rise to a violation.

Accordingly, Respondents respectfully request that the Commission find no reason to believe that any violation of the Federal Election Campaign Act of 1971 (the "Act"), as amended, or the Commission regulations has occurred and close this MUR as expeditiously as possible.

Respectfully submitted,

  
Lyn Utrecht

  
Eric Kleinfeld

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